

**Submission  
No 354**

**INQUIRY INTO IMPACT OF THE REGULATORY  
FRAMEWORK FOR CANNABIS IN NEW SOUTH WALES**

**Organisation:** Montu Group Pty Ltd

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Portfolio Committee No. 1  
NSW Parliament House  
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## **Submission to the Inquiry into the impact of the regulatory framework for cannabis in New South Wales**

Montu Group Pty Ltd (Montu) thanks the Chair, Deputy Chair, and Committee members for the opportunity to provide a submission to the Committee's inquiry into the impact of the regulatory framework for cannabis in NSW. We do so on behalf of the approximately 70,000 NSW patients to whom we have provided care.

There are three core areas we recommend the Committee prioritises in their investigations: the impact on drug testing for motorists prescribed medicinal cannabis, the impact on drug testing for employees prescribed medicinal cannabis, and the amplified impact for people in regional and rural settings.

### About Montu

Founded in 2019, Montu is the largest medicinal cannabis company in Australia, with operations in both the Asia-Pacific and European regions.

Montu's mission has always been to facilitate greater access and affordability of medicinal cannabis for patients who can potentially benefit from its therapeutic properties.

In everything we do, Montu is guided by two simple principles: an evidence-based belief in the life-changing potential of medical cannabis – and a drive to ensure it reaches those who need it most.

Montu has been named the country's fastest-growing tech company by Deloitte for an impressive two consecutive years. Montu was also included in the top five of LinkedIn's prestigious Top Startups list for 2023.

## Drug Testing of Patients Prescribed Medicinal Cannabis

Cannabis is a Schedule 8 medicine and like other Schedule 8 medicines is subject to strict legislative controls. In order to utilise medicinal cannabis as a treatment option for a patient, their doctor is required to be registered as an authorised prescriber with the Therapeutic Goods Administration and can only prescribe medicinal cannabis for a select range of medical conditions. Medicinal cannabis is further restricted as a second line treatment, requiring a doctor to verify a patient has been unresponsive to more 'traditional' treatment options for over three months.

### Case Study - Pain Management

Suzy\* had lifelong pain stemming from a disability. After being prescribed progressively stronger pain management including opioids, Suzy asked her doctor about medicinal cannabis.

After being assessed by an authorised prescriber Suzy was prescribed medicinal cannabis.

Following taking her medication Suzy reported significantly reduced pain scores and noted she continued to have pain relief for several hours after administering medicinal cannabis.

\*Patient names and details have been modified to ensure patient privacy

Many patients being treated through the use of medicinal cannabis face significant barriers in NSW due to various drug testing regimes. Patients face testing requirements in both the workplace and on the road. These testing regimes test for the mere presence of delta-9-tetrahydrocannabinol (THC) rather than the impact THC has on the patient.

The pharmacotoxicology of medicinal cannabis is significantly different from that of alcohol and some other tested substances. THC detection can persist for varying durations after a patient uses the prescribed treatment. Given this persistence in presence in the body, mostly due to pooling in lipids, this presence in saliva or blood does not in any way correlate to the level of impairment. As such, the current methodology for testing can only test presence and is inadequate for assessing impairment.

In practice, this means that when patients are prescribed medicinal cannabis and undergo treatment, they may feel the effects of the medicinal treatment, including any associated impairment, for 6-10 hours. However, they may continue to test positive for the presence of THC for over three days.

### Recommendation 1:

NSW undertake a review of alternative testing options to allow proper assessment of impairment, rather than testing for the presence of THC in legitimately prescribed patients.

## NSW Driving Laws

Section 111 of the Road Transport Act 2013 stipulates that it is an offence for a person to drive while there is any presence of cannabis, and other substances, in their oral fluid, blood or urine.

There is a vital delineation between patients who have been prescribed cannabis and have been found to have cannabis present in their oral fluid, blood or urine and patients whose driving ability is impaired as a result of cannabis.

Current NSW driving laws take a significant toll on patients. Patients are unable to both receive treatment for legitimate medical conditions and disabilities and drive to the chemist to pick up their medication.

At present NSW patients who are prescribed medicinal cannabis are treated the same as those who have used cannabis illicitly despite reasonable defences under Section 111 subsections 5 & 6 being already offered to patients who have been prescribed morphine.

Currently, Tasmania is the only Australian jurisdiction that manages medicinal cannabis and driving by providing medical defence provisions for those who are legally prescribed medicinal cannabis. By engaging with Tasmanian counterparts NSW Officials will be able to access real-world driving statistics that provide more accurate data about the safety or otherwise of implementing a medical defence provision.

There is a significant body of research into the impact of cannabis on driving. It is critical that any policy recommended by this Committee or subsequently formed by the Government is supported by sound evidence. Many existing studies investigate the presence of cannabis within crash victims and use this as an analogue for cannabis impairment; however, this research model offers a survivorship bias.

### **Recommendation 2:**

NSW undertake a review of existing, emerging, and planned medicinal cannabis driving research from other jurisdictions, including Victoria's closed-circuit track trial, and investigate its suitability to underpin policy in NSW.

### **Recommendation 3:**

NSW undertake a review of existing medicinal cannabis driving provisions from other jurisdictions, including Tasmania, and investigate their suitability for adoption in NSW.

## Workplace Drug Testing

The Work Health and Safety Act 2011 has not adequately kept up with advances in medical treatments and patient access. At present employees are required to return a nil-present result in testing for all tested substances; there is no exception for NSW patients prescribed medicinal cannabis.

While the original objective of the testing regime was to improve workplace safety by preventing employees from working while impaired by illicit substances, they have failed to keep pace with broader legislative changes. The current framework places further restrictions on patients' ability to access prescribed treatments and maintain employment.

While Montu objects broadly to the restriction on employees who are prescribed medicinal cannabis, we do accept that there are some cases where further study is required or where there is a significant public safety consideration. Employees required to operate heavy machinery and fly aircraft are already prohibited from undertaking certain tasks while taking select medicines including pain medication and cold and flu medication. We accept that, unless proven otherwise, people with medicinal cannabis present in testing should not be operating heavy machinery or aircraft.

However we must object to the restriction on employees who are working in lower-risk environments, have been prescribed a treatment by their doctor, and yet are still barred from working.

Many employers and employer groups are hesitant to support these employees as they fear they may breach WHS provisions set out in the Work Health and Safety Act 2011. Some employers and employer groups also have a preference for certainty and ensuring ease in the writing and upholding workplace policy. However, these employers and employer groups neglect to note that these policies negatively affect legitimate patients who have been prescribed a medical product by their doctor for the treatment of a number of specific conditions.

Employers readily accept employees working while undergoing a broad range of other medical treatments, many of which may have more significant impacts on an employee's abilities.

### **Recommendation 4:**

NSW amend the Work Health and Safety Act 2011 to ensure patients prescribed medicinal cannabis are treated the same as patients prescribed other medicines.

## Impact on Regional and Rural NSW

Regional and rural patients face amplified versions of many of the issues relevant to urban patients. For regional and rural patients, restrictions on driving and working often have a far greater impact. While remote services, such as telehealth, can alleviate some pressures, patients still face significant barriers to normality.

Drug driving regulations have a disproportionate impact on regional and rural patients as patients often do not have access to the same public transport services as urban patients. For regional and rural patients, the lack of a defence for patients prescribed medicinal cannabis can mean patients are unable to travel to essential services including employment, health care, and education. By virtue of their need for medical care, patients prescribed medicinal cannabis are often already disadvantaged in our communities. By requiring these disadvantaged regional and rural patients the ability to drive to essential services while THC is present but not impaired, patients are further disadvantaged.

Workplace restrictions also have a disproportionate impact on regional and rural patients. Many regional and rural communities rely on primary industries, including agriculture, mining, and forestry. The nil-present requirement means that patients who may still have detectable THC but no longer have any impairment are unable to work in the local economy.

The Pharmaceutical Services Unit (PSU) within the Ministry of Health is responsible for issuing authority to prescribers to prescribe Schedule 8 medicines, such as medicinal cannabis. This means that only doctors who are approved by the PSU to prescribe medicinal cannabis are able to prescribe it. For many regional patients, telehealth is the only way they can meet with an authorised doctor to see if they may be suitable for this treatment. These patients are also reliant on telehealth to have medicinal cannabis prescribed to them.

### **Recommendation 5:**

NSW consider the additional impact of the current regulatory framework for medicinal cannabis on people in regional and rural communities, particularly as it relates to driving and workplace regulations.

### **Recommendation 6:**

NSW acknowledge the vital role telehealth plays in connecting people in regional and remote areas to medical care and further acknowledge the critical role of telehealth in connecting patients to higher-level care options.

## Conclusion

In conclusion, we urge the Committee to investigate the impact on drug testing for motorists prescribed medicinal cannabis, the impact on drug testing for employees prescribed medicinal cannabis, and the amplified impact for people in regional and rural settings.

As Australia's largest medicinal cannabis company, Montu would greatly appreciate the opportunity to appear before the inquiry and provide the Committee with further information on these issues and insights provided by our patients.

If the Committee has any additional questions, regarding Montu, medicinal cannabis, or any of the issues raised in this submission, please do not hesitate to contact Edward Strong - Head of Government Relations at Montu via [edward.s@montu.com.au](mailto:edward.s@montu.com.au).

31 July 2024